

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

1 2 3 4 5 6 7 8 9)))))))))	CONNIE W. KWOK, Plaintiff, vs. RECONTRUST COMPANY, N.A., et al., Defendants.	Case No.: 2:10-cv-00215-GMN-RJJ
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ORDER

Plaintiff Connie W. Kwok has sued Defendants on multiple causes of action related to the foreclosure of her mortgage. Pending before the Court is Defendants' Motion to Dismiss (ECF No. 10). For the reasons given herein, the Court DISMISSES the case with prejudice and DENIES the Motion to Dismiss (ECF No. 10) as moot.

I. PROCEDURAL HISTORY

Plaintiff sued Defendants in the Clark County District Court on October 21, 2009 on eleven causes of action: (1) Fraud and Unfair Lending Practices; (2) Quiet Title; (3)–(4) Breach of the Duty of Good Faith and Fair Dealing; (5) Civil Conspiracy; (6) RICO; (7) Unjust Enrichment; (8) Civil Conspiracy; (9) Fraud; (10) Injunctive Relief; and (11) Declaratory Relief. (*See* No. 2:09-cv-02298-RLH-LRL, ECF No. 1.) Defendants removed, and the case was assigned to the Hon. Roger L. Hunt.

On November 4, 2009, Plaintiff filed a second complaint (the “Complaint”) in the Eighth Judicial District Court that is completely duplicative of the first complaint, except that Countrywide Home Loans is added as a defendant. Defendants removed the second complaint, as well. Although Defendants have now moved to dismiss that Complaint under Rule 12(b)(6), *sua sponte* dismissal by the Court is more appropriate. Defendants

1 and their counsel, being inundated with similar mortgage-related complaints, have
2 apparently failed to notice that the same case was filed and removed twice.

3 **II. LEGAL STANDARD**

4 A district court has discretion to dismiss duplicative complaints with prejudice.
5 *Adams v. Cal. Dept. of Health Servs.*, 487 F.3d 684, 693 (9th Cir. 2007) (citing *Flynn v.*
6 *State Bd. of Chiropractic Exam'rs*, 418 F.2d 668, 668 (9th Cir. 1969)).

7 **III. ANALYSIS**

8 Because the present case is entirely duplicative of the earlier-filed and earlier-
9 removed case currently before another judge of this District, the Court DISMISSES the
10 present case with prejudice. The only difference between the two complaints is the
11 addition of another party. If Plaintiff wishes to add another defendant to the lawsuit,
12 Plaintiff must amend the first complaint in accordance with Rule 15 of the Federal Rules
13 of Civil Procedure. Defendants cannot be joined by filing an otherwise duplicative
14 complaint that includes them.

15 **CONCLUSION**

16 IT IS HEREBY ORDERED that this case is DISMISSED with prejudice.

17 IT IS FURTHER ORDERED that the Motion to Dismiss (ECF No. 10) is
18 DENIED as moot.

19 DATED this 9th day of November, 2010.

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23 Gloria M. Navarro
24 United States District Judge
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